

MONTANA LEGISLATIVE HISTORY

Chapter 337 ~~H~~ 2057

Bill H _____ S 204 Original bill & history ☒ C

H. Committee on Business & Labor

S. Committee on Business, Labor, Economic Affairs

Hearing Date(s) 3-29 _____ C

Hearing Date(s) 1-23 _____ C

_____ C

1-31 _____ C

_____ C

_____ C

_____ C

_____ C

Date Out 3-29 _____ C

Date Act 1-31

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

SENATE BILLS

95

SB 203 INTRODUCED BY BALYEAT

LC0005 DRAFTER: STERNBERG

ALLOW CIVIL AIR PATROL CADETS UNDER 18 TO PARTICIPATE IN SEARCH & RESCUE

1/08	INTRODUCED		
1/08	REFERRED TO JUDICIARY		
1/17	HEARING		
1/18	COMMITTEE EXECUTIVE ACTION—BILL PASSED	12	0
1/18	COMMITTEE REPORT—BILL PASSED		
1/22	2ND READING PASSED ON VOICE VOTE	50	0
1/23	3RD READING PASSED	49	0
	TRANSMITTED TO HOUSE		
3/09	REFERRED TO LOCAL GOVERNMENT		
3/13	HEARING		
3/23	COMMITTEE EXECUTIVE ACTION—BILL CONCURRED	11	0
3/23	COMMITTEE REPORT—BILL CONCURRED		
3/27	2ND READING CONCURRED	97	2
3/28	3RD READING CONCURRED	96	3
	RETURNED TO SENATE		
3/29	SENT TO ENROLLING		
3/30	RETURNED FROM ENROLLING		
3/30	SIGNED BY PRESIDENT		
4/02	SIGNED BY SPEAKER		
4/03	TRANSMITTED TO GOVERNOR		
4/10	SIGNED BY GOVERNOR		
4/10	CHAPTER NUMBER ASSIGNED		
	CHAPTER NUMBER 186		
	EFFECTIVE DATE: 4/10/2007 - ALL SECTIONS		

SB 204 INTRODUCED BY RYAN

LC0703 DRAFTER: MURDO

PREVENT INSURER FROM REQUIRING REPAIRS OR ESTIMATES FROM CERTAIN BUSINESS

1/08	INTRODUCED		
1/08	REFERRED TO BUSINESS, LABOR, AND ECONOMIC AFFAIRS		
1/23	HEARING		
1/31	COMMITTEE EXECUTIVE ACTION—BILL PASSED AS AMENDED	11	0
1/31	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/03	2ND READING PASSED ON VOICE VOTE	48	0
2/05	3RD READING PASSED	47	1
	TRANSMITTED TO HOUSE		
3/21	REFERRED TO BUSINESS AND LABOR		
3/29	HEARING		
3/29	COMMITTEE EXECUTIVE ACTION—BILL CONCURRED	16	0
3/29	COMMITTEE REPORT—BILL CONCURRED		
3/31	2ND READING CONCURRED	76	23
4/02	3RD READING CONCURRED	85	15
	RETURNED TO SENATE		
4/03	SENT TO ENROLLING		
4/04	RETURNED FROM ENROLLING		
4/13	SIGNED BY PRESIDENT		
4/17	SIGNED BY SPEAKER		
4/17	TRANSMITTED TO GOVERNOR		
4/27	SIGNED BY GOVERNOR		
4/30	CHAPTER NUMBER ASSIGNED		
	CHAPTER NUMBER 339		
	EFFECTIVE DATE: 10/01/2007 - ALL SECTIONS		

SB 205 INTRODUCED BY JENT

LC1707 DRAFTER: HEFFELFINGER

ELIMINATE VACANCY SAVING APPLICATION TO GAME WARDENS

12/05	FISCAL NOTE NEEDED		
1/08	FISCAL NOTE REQUESTED		
1/08	INTRODUCED		
1/08	REFERRED TO FISH AND GAME		
1/16	FISCAL NOTE RECEIVED		
1/18	FISCAL NOTE PRINTED		
1/23	HEARING		
1/29	COMMITTEE EXECUTIVE ACTION—BILL PASSED	8	0
1/29	COMMITTEE REPORT—BILL PASSED		
2/02	2ND READING PASSED	35	14
2/03	3RD READING PASSED	32	16

S BILL NO. 204

INTRODUCED BY Ryan
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT PREVENTING AN INSURER FROM REQUIRING MOTOR VEHICLE REPAIR ESTIMATES OR REPAIRS FROM CERTAIN BUSINESSES; AND AMENDING SECTION 33-18-224, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 33-18-224, MCA, is amended to read:

"33-18-224. Designation of specific automobile body repair businesses prohibited. (1) An insurance company, including its producers and adjusters, that issues or renews a policy of insurance in this state covering, in whole or in part, a motor vehicle may not:

(a) require that a person insured under the policy use a particular automobile body repair business or location for an estimate or a repair; or

(b) engage in any act or practice that intimidates, coerces, or threatens an insured person or that provides an incentive or inducement for an insured person to use a particular automobile body repair business or location.

(2) (a) Except as provided in subsection (2)(b), if an insurance company has direct repair programs with automobile body repair businesses or locations, the insurance company may not limit the number of automobile body repair businesses or locations with whom it maintains direct repair programs.

(b) An insurance company may limit the number of automobile body repair businesses or locations participating in the insurance company's direct repair program to those automobile body repair businesses or locations that comply with the provisions of subsection (2)(c). An insurance company is not required to establish a direct repair program in a particular market area in which the insurance company's number of policyholders does not support establishing a direct repair program with any automobile body repair business or location.

(c) Upon request, the insurance company shall provide, without prejudice or bias, the insured person with a list that includes all automobile body repair businesses or locations that are reasonably close or convenient to the insured person and willing to provide services and that meet the insurance company's criteria regarding whether the automobile body repair business or location:

- 1 (i) possesses the equipment necessary to undertake repairs;
- 2 (ii) undertakes training of management and technical personnel with respect to repair information and
3 the claims process;
- 4 (iii) agrees to perform quality repairs at the prevailing competitive market price and that meet reasonable
5 industry repair standards;
- 6 (iv) agrees to warrant the quality of work, including refinishing, in writing to the insured person, for a
7 period of not less than 1 year from the date of repair;
- 8 (v) agrees to inspection of its repairs and services by the insurance company and agrees that the
9 insurance company may terminate the direct repair program with the automobile body repair business or location
10 if the repairs and services are below the standards of quality required by the insurance company; and
- 11 (vi) if requested, agrees to execute an agreement with the insurance company that may contain additional
12 criteria that are not designed to unfairly limit the number of automobile body repair businesses or locations with
13 whom the insurance company maintains direct repair programs. The additional criteria may include criteria
14 determined to be necessary by the insurance company and designed to ensure that the automobile body repair
15 business or location has the necessary estimating systems and programs and equipment to communicate
16 electronically with the insurance company and that the automobile body repair business or location has taken
17 steps to ensure the privacy of the insurance company and the insured person.
- 18 (d) If the insured person requests the list provided for in subsection (2)(c), the insurance company shall
19 inform the insured person that the insured person may use an automobile body repair business or location at the
20 sole discretion of the insured person.
- 21 (3) For the purposes of this section, an incentive or inducement does not include:
- 22 (a) providing an insured person with the list provided for in subsection (2)(c); or
- 23 (b) referring to a warranty issued by an automobile body repair business or location.
- 24 (4) The insured may use an automobile body repair business or location at the insured's sole discretion,
25 and the insurance company shall pay for the reasonable and necessary cost of the automobile body repair
26 services for covered damages, less any deductible under the terms of the policy. This section does not require
27 an insurer to pay more for automobile body repair services than the lowest prevailing market price, as defined
28 in 33-18-222.
- 29 (5) If the insured person uses an automobile body repair business or location that is not on a list provided
30 for in subsection (2)(c), the insurance company may not be held liable for any repair work performed by the

1 automobile body repair business or location chosen by the insured person.

2 (6) It is unlawful for an automobile body repair business or location to charge or agree to charge an
3 insured customer more than an uninsured customer for any automobile body repair service.

4 (7) An insurance company that contracts with an independent adjuster may not be held liable for the
5 independent adjuster's failure to comply with the terms of this section.

6 (8) For purposes of this section, "automobile body repair business or location" does not include a
7 business or location that exclusively provides automobile glass replacement, glass repair services, or glass
8 products."

9 - END -

MINUTES

**MONTANA SENATE
60th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON BUSINESS, LABOR, AND ECONOMIC AFFAIRS

Call to Order: By **CHAIRMAN VICKI COCCHIARELLA**, on January 23, 2007 at 9:00 A.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. Vicki Cocchiarella, Chairman (D)
Sen. Joe Balyeat (R)
Sen. Roy Brown (R)
Sen. John Esp (R)
Sen. Verdell Jackson (R)
Sen. Lane L. Larson (D)
Sen. Don Ryan (D)
Sen. Frank Smith (D)
Sen. Carolyn Squires (D)
Sen. Donald J. Steinbeisser (R)
Sen. Joseph (Joe) Tropila (D)

Members Excused: None.

Members Absent: None.

Staff Present: Claudia Johnson, Committee Secretary
Pat Murdo, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: SB 209, 1/15/2007; SB 191,
1/15/2007; SB 204, 1/15/2007; SB
214, 1/15/2007
Executive Action: SB 42, SB 53, SB 54, SB 157

00:44:49 Sen. Cocchiarella to Dallas Cox, DLI

Closing by Sponsor:

00:45:21 Sen. Esp

HEARING ON SB 204

Opening Statement by Sponsor:

00:46:42 **SEN. DON RYAN (D), SD 10**, opened the hearing on **SB 204**,
Prevent insurer from requiring repairs or estimates
from certain business.

EXHIBIT(bus15a05)

EXHIBIT(bus15a06)

Proponents:

00:51:17 Donna Fastenau, Automobile Services Association

EXHIBIT(bus15a07)

EXHIBIT(bus15a08)

EXHIBIT(bus15a09)

00:56:31 Bruce Halcro, Self

EXHIBIT(bus15a10)

01:01:23 Larry Kibbee, Property Casualty Insurers Association of
America

Opponents:

01:04:10 Greg Van Horssen, State Farm Insurance Company

01:10:25 Jacqueline Lenmark, American Insurance Association

01:14:04 Frank Cote, Farmers Union Mutual Company

Informational Testimony: None.

Questions from Committee Members and Responses:

01:15:26 Sen. Smith to Greg Van Horssen, State Farm Insurance
Company

01:17:59 Sen. Brown to Jacqueline Lenmark, AIA

01:18:52 Sen. Balyeat to Greg Van Horssen, State Farm Insurance Company

01:19:37 Sen. Balyeat to Sen. Ryan

01:20:05 Sen. Tropila to Bruce Halcro

Closing by Sponsor:

01:26:38 Sen. Ryan

HEARING ON SB 214

Opening Statement by Sponsor:

01:27:11 **SEN. DAVE LEWIS (R), SD 42**, opened the hearing on **SB 214**, Independent contractor exemption for certain corporate officers.

Proponents:

01:31:15 Spook Stang, Executive Vice President, Montana Motor Carriers

01:32:58 Nancy Butler, Montana State Fund, MSF

01:33:26 Jacqueline Lenmark, American Insurance Association

Opponents: None.

Informational Testimony:

01:34:09 Keith Messmer, DLI

Questions from Committee Members and Responses:

01:35:19 Sen. Brown to Sen. Lewis

01:35:59 Sen. Cocchiarella to Keith Messmer, DLI

01:36:33 Pat Murdo, LSD

01:37:19 Sen. Balyeat to Sen. Lewis

01:38:41 Sen. Smith to Nancy Butler, MSF

Closing by Sponsor:

01:39:35 Sen. Lewis

ROLL CALL

DATE 1-23-07

[illegible]

Amendments to Senate Bill No. 204
1st Reading Copy

Requested by Senator Don Ryan

For the Senate Business, Labor, and Economic Affairs Committee

Prepared by Pat Murdo
January 23, 2007 (8:45am)

1. Page 1, line 14.

Following: "policy"

Insert: "or a third-party claimant"

2. Page 1, line 27.

Following: "person"

Insert: "or third-party claimant"

3. Page 2, line 18.

Following: "person"

Insert: "or third-party claimant"

4. Page 2, line 19.

Strike: "inform the insured person"

Insert: "provide notice"

Following: the second "person"

Insert: "or third-party claimant, as applicable,"

5. Page 2, line 20.

Following: "person"

Insert: "or third-party claimant"

6. Page 2, line 22.

Following: "person"

Insert: "or third-party claimant"

7. Page 2, lines 27 through 28.

Strike: "lowest" on line 27

Strike: ", as defined" on line 27 through "33-18-222" on line 28

- END -

Amendments to Senate Bill No. 204
1st Reading Copy

Requested by Senator Don Ryan

For the Senate Business, Labor, and Economic Affairs Committee

Prepared by Pat Murdo
January 22, 2007 (11:58am)

1. Title, line 5.
Following: "BUSINESSES;"
Insert: "ALLOWING ACCESS FOR COMPETITIVE ESTIMATES;"
2. Page 1, line 11.
Following: "(1)"
Insert: "(a)"
3. Page 1, line 14.
Strike: "(a)"
Insert: "(i)"
4. Page 1, line 16.
Strike: "(b)"
Insert: "(ii)"
5. Page 1.
Following: line 18
Insert: "(b) An insurance company, including its producers and adjusters, that issues or renews a policy of insurance in this state covering, in whole or in part, a motor vehicle may have access to the motor vehicle for purposes of preparing a competitive estimate."

- END -

Donna Fastenau
406-652-1440

SB 204
1-23-07

January 18, 2006

BUSINESS, LABOR & ECONOMIC AFFAIRS
EXHIBIT No. 7
DATE 1-23-07
BILL No. SB 204

TO: Committee Members

FROM: Beth Klunder
Vice-President
Rocky Mountain Bank

Dear Committee Members:

FAIR

I am writing to express my concern about the experience I had with Safeco Insurance on an insurance claim that I had on my vehicle.

I was given the choice of going to Chassis Works or Big Sky Collision in Billings to have my vehicle inspected by a Safeco Adjuster.

I have handled all of my auto body repair work through Hank's Body Shop for years. I trust them, and know the owner's personally. I do NOT choose to obtain estimates or shop for competitive bids at other body shops in Billings.

I felt it was very inconvenient to drive up to Chassis Works in Billings Heights on icy roads to have my car adjusted. I also felt that I was being "steered" by Safeco to have my car repairs done at Chassis Works.

I felt uncomfortable and out of place at Chassis Works because I was not having my car repaired by them. It would be my recommendation to have Safeco choose a "neutral" location for their claims representatives in the future.

Sincerely,

Beth Klunder

Beth Klunder

4580 Laredo Place
Billings, MT 59106

January 17, 2007

Re: Vehicle Repair

To Whom It May Concern:

The purpose of this letter is to alert the legislature to a practice that is occurring in Billings, MT. My understanding of Montana law is that people have a choice of body shops for vehicle repair and that multiple estimates of repair are not required.

In December 2006 I unfortunately experienced a minor, vehicle collision and was instructed by my long-term insurance agency, Safeco Insurance, to make an appointment with Big Sky Collision Center in Billings for a claims adjuster to prepare an estimate of the damages to my vehicle. I had already contacted Track Side Auto Body & Glass, my preferred company, in Billings for an appointment for an estimate and repair of my vehicle. The estimate at Big Sky Collision Center took an hour of my time which I felt was unnecessary since I had no intention of authorizing that body shop to perform the repair. Following that appointment, I went to Track Side Auto Body & Glass for another estimate and to schedule the repair. This was duplicated effort on my part and a waste of time for Big Sky Collision Center. In fact, their estimate neglected to include all of the damage, and Track Side Auto Body had to follow-up with the estimator for approval on additional repairs.

I am concerned that insurance companies can require insureds to obtain vehicle damage estimates at a specific body shop with the implication that is the only "approved" site. Doesn't that practice circumvent the law of free choice in automobile repair? Thank you for your consideration.

Sincerely,


Phyllis A. Jenkins

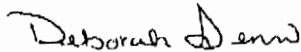
FROM :

FAX NO. :

Jan. 18 2007 04:05PM P1

On December 15, 2006 I was going to my fathers house who had just passed away, about 6 miles from his house I hit a Bull Elk that was on the road. It was a unavoidable because of an on coming car and the fact that it was completely dark. There was a considerable amount of damage done to the right front of my 2004 Chevy pickup. I called Farmers Insurance the next morning. I got the claim going and they told me I could use any Body Shop I wanted to, but they had their preferred body shops. I got some estimates from the shops I wanted to go to. I called claimer adjuster and he said he would have to see my pick up before I could go to Track Side Auto Body Shop. I told him I was working 6 days a week 8 to 10 hours a day. I also told him where my pick up was all day and he got come and look at it. He told me I would have to be there for him to look at my pickup. I did get a day off and went to Farmer Claims Office and was told that my claimer adjuster was out that day and nobody else was available to look at my pickup and really pushed their preferred shops to take my truck to get fixed. I just had to drop off my truck and they would get started on fixing it right away. Between working and trying to put together a funeral service for my father I finally got mad and went to one of Farmers preferred shops and got my truck fixed. When I got my truck back it looked nice, but the first time I washed it the hood was scratched. I was really disappointed that I did not go to who I wanted to go to and used one of Farmers preferred shops. If I can go to any shop, it should not be so hard to go the body shop I want to go to without a adjuster looking at my truck. From the estimates I got there was not much difference in the prices.

Thank you for your time



Deborah Senn
January 17, 2007

Date: January 17, 2006

Re: Auto insurance/body shop recommendations

In 2005, my car was involved in an accident where I was not at fault. When the other party's insurer contacted me they urged me to go to a particular auto company here in town as it was their "body shop of choice". I went there first and they gave me a bid for \$2100 for repairs. I went to another shop and was given a bid of \$1700. I called the insurer and told them their recommended shop was higher by 24% on the bid. They said that was still fine and to go to that shop for the work. I declined and got the work done for \$1700 and called the insured party and told them of the conversation.

Mike Dimich

406-252-9355

Billings, Montana

Dear Committee Members:

I would like to urge you to pass the amendments to SB 204. Allowing insurance companies to set up shop in independent repair facilities is steering and interferes with free trade. When a Safeco, USAA, or Hartford customer comes into my shop for an estimate, I must tell them they have to get their estimate at another body shop. I will never see many of these potential customers back in my shop. I have no idea how many customers I have lost because of this process. Also, to my knowledge, I am only aware of the 3 companies I mentioned doing this, there might be others that I will not get a chance to see. What would stop other companies from following this same procedure if these companies are allowed to continue? What will happen to free enterprise then?

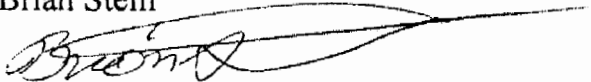
Gratuity? Safeco specifically is not paying the body shop rent to give their adjusters space in the shop facility. Is this gratuity, or is the payment for being in the body shop more vehicles to repair since they are requiring insureds and claimants to come to their facility?

I have also included a few letters from consumers expressing their feelings of intimidation by not being allowed to choose a shop of their choice.

I ask that you please consider our letters and please pass the amendments.

Thank you for your consideration,

Brian Stein



Track Side Auto Body
2012 1st Ave. North
Billings, MT 59101
406-256-8366

Automotive Service Association

State Legislative Objectives

(Jan. 1, 2007-Dec. 31, 2007)

I. Monitor State Legislation and Regulations

A. The Washington office will advocate positions before state legislatures and agencies in support of or in opposition to legislation or regulations as directed by the ASA board of directors.

B. The Washington office will submit testimony, when appropriate, in favor of or in opposition to proposed legislation and regulations.

C. The Washington office will develop favorable new legislation and seek sponsors and supporters both inside and outside the state legislature.

D. The Washington office will study, evaluate and report on all new legislation for its potential impact on ASA members.

E. The Washington office will garner grassroots support from ASA members and other interested parties on issues of principal concern.

F. The Washington office will develop industry coalitions to assist ASA members in state legislative and regulatory activity.

II. Develop a Position and a Lobbying Strategy for Important Legislation

The Washington office will recommend positions and advocacy strategies for legislation that has been introduced or for any new proposals to be supported or opposed by ASA.

A. Insurance Reform

1. ASA supports state legislation that provides that no motor vehicle insurance policy may require the insured to use a particular repair facility for repair services.

2. ASA supports state legislation that prevents insurance com-

panies from requiring the use of replacement crash parts unless the vehicle owner consents in writing.

3. ASA opposes state legislation that allows insurance companies to offer policyholders the option of purchasing policies that provide that only certain repair facilities will be used in the event of a claim in return for reduced premium charges.

4. ASA opposes insurance companies having an ownership interest in repair facilities.

5. ASA supports removing the cost of repairing, replacing or reinstalling inflatable safety restraints from the total cost of repairs to rebuild or reconstruct a vehicle.

B. Vehicle Safety and Emissions Inspections

1. ASA supports legislation that encourages states to adopt safety and inspection programs, combined with vehicle emissions inspection programs, where feasible.

2. ASA supports effective state vehicle emissions inspection and maintenance programs tailored to meet each state's unique requirements.

C. Clean Air Issues

1. ASA supports state legislation that limits the sale and distribution of automotive refinish products to those repair facilities with the proper training and equipment necessary for the safe and environmentally sound use of those products.

2. ASA opposes state legislation promoting accelerated vehicle scrappage programs in instances where older, high-emitting vehicles can be identified and adequately repaired except if a repair option exception is included in the scrappage proposal.

D. Miscellaneous Legislation

1. ASA opposes state legislation that attempts to limit the payment plans by which automotive technicians are compensated.

2. ASA opposes state legislation that requires automotive repair shops to provide long-term warranties on labor and parts.

3. ASA supports state repair shop licensing that includes – but is not limited to – technician training and equipment requirements.

4. ASA opposes state legislation that would require motor vehicle repair businesses to give all customers a firm estimate of the time and money required to complete repair jobs.

5. ASA supports state incentives for training and apprenticeship programs.

6. ASA supports legislation and regulations that create affordable business liability, health and worker compensation programs.

III. Develop a Long-Term Grassroots Education Program

A. The Washington office will work with the national office to disseminate information to ASA members to enhance ASA's advocacy efforts.

B. The Washington office will use new technologies to reach members and inform them of opportunities for grassroots lobbying activities.

C. The Washington office will conduct state education activities to enhance independent repair state positions. The Washington office will develop targeted state initiatives to advance ASA national legislative policies.

ASA encourages the independent automotive repair industry to use ASA's legislative and regulatory Web site, www.TakingTheHill.com.

Donna Fastenau #2
406-652-1440
SB204

1-23-07

MONTANA STATE AUDITOR

JOHN MORRISON
 STATE AUDITOR



COMMISSIONER OF INSURANCE
 COMMISSIONER OF SECURITIES

September 12, 2006

BUSINESS, LABOR & ECONOMIC AFFAIR
 EXHIBIT No. *9*
 DATE *1-23-07*
 BILL No. *SB204*

Denise Caspersen
 Manager, Collision Division
 Automotive Service Association
 P.O. Box 929
 Bedford, TX 76095-0929

Dear Ms. Caspersen:

This letter is in response to your correspondence which we received on July 7, 2006. You asked about the labor rates in relation to practices by Safeco Insurance Company of America in the Billings, Montana area, and about Safeco writing estimates in independent collision repair shops that happen to be Safeco's direct repair shops.

You also stated that Kevin Phillips, staff attorney, sent a petition to Kelly M. Cannon of Safeco to request how Safeco determines the lowest prevailing market rate for the State of Montana and specifically, the Billings, Montana area. Mr. Phillips was called for active duty and has not been in the office. We have had to contact Safeco for additional information as well.

1. How does Safeco arrive at a prevailing market rate in an area? A prevailing market rate is based on the rates charged by the majority of repair facilities in a specific geographical location. Safeco obtains information about those rates directly from the facilities as a result of paying claims.
2. What is the current prevailing market rate for Billings?

Labor	Paint	Frame
\$50	\$28	\$54

The complaints from repair facilities appear to have occurred following the decision by Safeco not to reimburse regular labor costs through supplemental claims. As you know, supplementals are generally used when unforeseen or additional repairs are necessary to restore the vehicle, not for the labor hours that are known at the time of the estimate. Safeco apparently obtained the market information and set the above rates. Although your letter indicates that this issue remains unresolved, to my knowledge we have not received any complaints during this interim time. If there is a specific consumer, claimant or

where is the documentation?
State Farm
has a survey.

Phone: 1-800-332-6148 / (406) 444-2040 / Fax: (406) 444-3497

840 Helena Avenue Helena, MT 59601 Website: www.discoveringmontana.com/sao E-Mail: stateauditor@state.mt.us

Denise Caspersen
Page 2
September 12, 2006

insured, we will need to have their written permission to look into their claim with the insurer.

Your second issue relates to the possible writing of estimates by Safeco adjusters in Safeco direct repair shops. You asked if this practice lends itself to steering or the appearance of steering and if this demonstrates a conflict of interest.

Steering can be very subtle. Perhaps a review of the pertinent portion of statute is appropriate. Section 33-18-224, MCA:

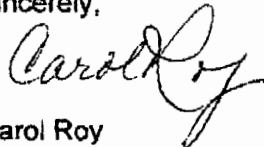
33-18-224. Designation of specific automobile body repair businesses prohibited. (1) An insurance company, including its producers and adjusters, that issues or renews a policy of insurance in this state covering, in whole or in part, a motor vehicle may not:

- (c) require that a person insured under the policy use a particular automobile body repair business or location; or
- (d) engage in any act or practice that intimidates, coerces, or threatens an insured person or that provides an incentive or inducement for an insured person to use a particular automobile body repair business or location.

We have not received any written complaints from insured's or claimants that demonstrate intimidation, coercion, threats, incentives, or inducements to use a particular automobile body repair business or location. Again, if you have evidence of any of the above please forward it to my attention and we will set up a file and look into the allegations.

Your time and interest in advocating for your members is appreciated.

Sincerely,



Carol Roy
Administrator
Policyholder Services

CR/sa

Sent 6/30/06



**Automotive
Service
Association®**

Street Address
1901 Airport Freeway
Bedford, Texas 76021-5732

Mailing Address
P.O. Box 929
Bedford, Texas 76095-0929

Phone
(800) 272-7467
Fax
(817) 685-0225

E-mail
asainfo@asashop.org
Internet
www.asashop.org



Mr. John Morrison
State of Montana Insurance Commissioner
840 Helena Ave
Helena, Montana 59601

Mr. Morrison:

Similar to your task as a public servant representing individuals and mediating insurance related situations, the Automotive Service Association (ASA) has been asked by Ms. Donna Fastenau, co-owner of Hank's Body Shop in Billings, MT to further inquire into Safeco Insurance practices in Billings and Missoula, MT concerning labor rates; and the statewide potential conflict of interest of Safeco writing estimates in independent collision repair shops that happen to be Safeco's direct repair shops. ASA is the largest trade association of its kind, being member-driven by 12,000 independent mechanical and collision shop owners throughout the United States.

Representing independent collision business owners in the state of Montana, I would like to restate the two insurance related items involving Safeco Insurance company and collision businesses in the major Montana cities of Billings and Missoula that were presented to your office in April, 2006 and the actions taken thus far.

1. Currently Safeco Insurance is not paying the prevailing labor rates in Billings and Missoula, in violation of Montana Code 33-18-222 and 30-14-209.

Following a complaint letter sent by Ms. Fastenau to the Montana Department of Insurance stating that Safeco Insurance was refusing to pay the prevailing labor rates on work done to cars covered by this insurance vendor, Elias Harman, Compliance Specialist Policy Holder Services at the Montana Department of Insurance, responded that "in order for us to investigate a complaint of the nature you filed, we must have specific claim details and we must have written permission from the insured or claimant to investigate the problem in questions. Unless you (the collision shop) are a party to the loss / damage of property, we cannot investigate your dispute."

Following a complaint letter sent by Mr. Gary Harris, an inquiry by Mr. Frank Truax (file number 34636), Compliance Specialist Policy Holder Services at the Montana Department of Insurance addressing Safeco labor rate determination, a petition was also sent by Montana State Auditor staff attorney Kevin F. Phillips to Kelly M. Cannon, on April 20, 2006, for a formal request to find out how Safeco determines the lowest prevailing market rate for the state of Montana and specifically, the Billings

20



**Automotive
Service
Association®**

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Bedford, Texas 76021-5732

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Bedford, Texas 76095-0929

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www.asashop.org



area. To date, no response from Mr. Kevin Phillips' inquiry has been given to the shops.

According to a response from Mac McCollough, Unit Manager for Safeco Insurance, at the time of the initial inquiry, labor rates in Billings were under evaluation and have since be determined to be \$50.00 per hour for sheet metal labor and paint labor, however Safeco Insurance has not met the prevailing rate for mechanical and frame labor, and paint and materials..

2. The second item is in regard to a statewide potential conflict of interest caused by Safeco Insurance writing estimates out of Safeco's direct repair shops. Does this practice lend itself to steering or the appearance of steering? Does this practice demonstrate a conflict of interest?

Following an inquiry by Mr. Frank Truax, Compliance Specialist Policy Holder Services at the Montana Department of Insurance regarding the Safeco Insurance location practice it was determined "regrettably there is nothing in statue at this time that prevents them (Safeco Insurance) from using the body shop of their choice for doing this."

With this in mind, would it be possible to better explain this process to concerned collision shop owners in an attempt to diminish the conflict of interest and steering appearances and better define "how it is not steering"?

Through the assistance of your department, some progress has been made on these issues, yet the item of prevailing rates in Billings and Missoula remains unresolved and clarity regarding the Safeco Insurance estimate writing procedure would be greatly appreciated.

Encouraging the ASA membership to be a part of the process is essential. ASA appreciates your time and input. If I can provide any information or assistance, please contact me at (817)-358-5236 or denisec@asashop.org.

Respectfully,

Denise Caspersen
Manager, Collision Division
Automotive Service Association

CC: Ms. Donna Fastenau, co-owner of Hank's Body Shop

Sent 5/4/06

Mrs. Pichette,

My name is Dan Risley and I am the Executive Director for the Society of Collision Repair Specialists (SCRS). We are the largest national trade association in the country representing collision repairers. We currently enjoy over 5,000 members.

I am contacting you for assistance and guidance. Over the past several months, members have contacted our office with several issues in Montana both involving Safeco Insurance. We directed them to contact your office as our members have had success in working together with their respective Insurance Commissioners. Unfortunately, they are once again seeking SCRS's help since they were unsuccessful in addressing their issue(s). I am hopeful that you may be able to help. The following are the two issues that have been brought to our attention. It is important to note that SCRS tag line is "Working Together Is The Most Important Work We Do". We are an association that seeks to work together with insurers, Dept. of Insurance etc. to amicably address issues as they arise.

- 1.) Safeco Insurance is not paying the prevailing labor rate in Billings or Missoula. They were paying the prevailing rate in Billings but recently gave notice that they won't pay it. Apparently this is only a Safeco issue as other insurers in both of those cities pay the prevailing market rate. How should our members proceed forward in addressing this issue if in fact Safeco is not paying the prevailing market rate? What does the law state in Montana regarding paying less than the prevailing market rate?
- 2.) Several members have called to inquire about the potential conflict of interest caused by Safeco Insurance writing estimates out of two different collision repair facilities in Billings. We believe this inhibits a free market and has the potential for insured's to be steered to those collision repair facilities. Can you please provide some insight as to whether or not this is legal, is there a conflict of interest and what if anything can our members do? SCRS does not support or denounce direct repair programs because we believe it is a decision that is made on an individual basis as to whether or not it is good for their business. We do support a free and open marketplace where the consumer has the right to choose where to have their vehicle repaired.

Any assistance would be greatly appreciated as "Working Together Is The Most Important Work We Do". If you should have any questions or concerns please do not hesitate to contact me at (708) 598-3384 or drisley7@comcast.net.

Sincerely,

Dan

Dan Risley
SCRS Executive Director

Office: 708.598.3384
Cell: 708.250.7718

"A true friend knows your weaknesses but shows you your strengths; feels your fears but fortifies your faith; sees your anxieties but frees your spirit; recognizes your disabilities but emphasizes your possibilities"

William Arthur Edwards

*This letter was
never answered*

On 12-20-06 I was rear ended by another driver. He was cited for following to close. On 1-21-06 Collision Pro called and said they had a appointed set up for my truck. Hartford Insurance had called them to set up a appointment. I was in the hospital - my wife told them we were taking it to Jamie's (now called Capital Collision Center). I called Hartford and told them when I was taking it and they told me they had to send a adjuster out before I could take it anywhere. In the meantime I got a estimate from Capital Collision ~~Pro~~. I had to wait until 12-27-06 for the adjuster and he tried to steer me to Collision Pro. I feel because of when my truck was fixed is the reason I had so many problems getting my truck fixed right. First they only wanted

to replace one shock because
that was all that was damaged.
My truck has 87,000 miles on
it. The B M Dealer said you
don't replace just one new one
with the old one. I have a
letter from Grinn Motors stating
this. One of my mud flaps
was damaged and they only allow
for 1 mud flap. Anyone know
you buy mud flaps in sets.
My truck had over \$4000 worth
of damage and Hartford Insurance
was arguing over 1000 worth
of damage. I feel I was treated
very unfairly because I didn't
take my truck to the repair
shop of their choice.

Bill John

**MONTANA STATE SENATE
2007 LEGISLATURE**

VISITOR REGISTER

BUSINESS, LABOR AND ECONOMIC AFFAIRS

DATE 1-23-07

BILLS BEING HEARD TODAY SB 191, 204, 209, 214

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Wayne Johnston	841-2370	Board of Private Security	SB 209	X	
Bob Worthington	443-0907	MPIA	SB 191		X
George Wood	406-549-8849	Mt. Self-Insurers Assoc	SB 191		X
Louise Huber	360-770-6925	PCIAA	SB 204	Amendment	
Self Koch	542-5203	Self	SB 209	X	
Charles Brooks	648-2380	Yellowstone	SB 204	X	
Bon Hirsch	721-2100	Equity Manufacturing	SB 209	X	
T. A. Smith	442-1708	AF4-CIO	SB 121		X
Keith Messmer	444-6541	Dept of Labor	SB 191/204		
Bruce Halero	449-3372	MCRS	SB 204	X	
Donna Fastenau	652-1440	MCRS	SB 204	X	
Chuck Liles	442-2500	MCRS	SB 204	X	
Mary "Marty" Phippen	262-2459	Mt. Assn Clerks of Dist Ct	SB 209	X	
Nancy Sweeney	447-8215	L&C County Clerk Dist Court	SB 209	X	
Gayle Hansen	2-0230	State Farm Ins	SB 204		X
Ruby Johnson	3-3797	NFIB	SB 204 SB 191		X X
Sheela Wood	444-4360	MACo	SB 209	X	
Jacqueline Benmark	2-0230	AIA	SB 204		X
Danney Butler	444-7725	MT State Fund	SB 214 SB 191	X	X
Sary Regreberg	2-4162	Contractors' Assn.	SB 191		X
Frank Cote	3-9070	FUMIC	SB 204		X

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MINUTES

**MONTANA SENATE
60th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON BUSINESS, LABOR, AND ECONOMIC AFFAIRS

Call to Order: By **CHAIRMAN VICKI COCCHIARELLA**, on January 31,
2007 at 9:00 A.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. Vicki Cocchiarella, Chairman (D)
Sen. Joe Balyeat (R)
Sen. Roy Brown (R)
Sen. John Esp (R)
Sen. Verdell Jackson (R)
Sen. Lane L. Larson (D)
Sen. Don Ryan (D)
Sen. Frank Smith (D)
Sen. Carolyn Squires (D)
Sen. Donald J. Steinbeisser (R)
Sen. Joseph (Joe) Tropila (D)

Members Excused: None.

Members Absent: None.

Staff Present: Claudia Johnson, Committee Secretary
Pat Murdo, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: SB 165, 1/29/2007
Executive Action: SB 134, SB 191, SB 204, SB 209, SB
211, SB 240, SB 304, SB 315

EXECUTIVE ACTION ON SB 134

01:02:20 Sen. Cocchiarella

01:03:21 Motion/Vote: SEN. SQUIRES moved that SB 134 BE TABLED.
Motion carried unanimously by voice vote. SEN. BALLYEAT
voted by proxy.

Discussion:

01:04:24 Sen. Cocchiarella

EXECUTIVE ACTION ON SB 191

01:04:44 Motion: SEN. ESP moved that SB 191 DO PASS.

Discussion:

01:04:54 Motion: SEN. TROPILA moved that SB 191 BE TABLED.

Discussion:

01:06:33 Sen. Tropila withdrew his motion on SB 191

01:06:53 Sen. Cocchiarella

01:07:54 Sen. Jackson

01:08:22 Motion/Vote: SEN. TROPILA moved that SB 191 BE TABLED.
Motion carried 10-1 by voice vote with SEN. ESP voting
no. SEN. BALLYEAT voted by proxy.

EXECUTIVE ACTION ON SB 204

01:09:14 Motion: SEN. RYAN moved that SB 204 DO PASS.

01:11:40 Motion: SEN. RYAN moved that AMENDMENT SB020405.APM BE
ADOPTED.

EXHIBIT(bus21a01)

Discussion:

01:15:18 Sen. Steinbeisser to Sen. Ryan

- 01:16:01 Vote: MOTION that AMENDMENT SB020405.APM BE ADOPTED carried unanimously by voice vote. SEN. BALYEAT voted by proxy.
- 01:16:07 Motion/Vote: SEN. RYAN moved that SB 204 DO PASS AS AMENDED. Motion carried unanimously by voice vote. SEN. BALYEAT voted by proxy.

EXECUTIVE ACTION ON SB 209

Discussion:

01:17:23 Pat Murdo

EXHIBIT(bus21a02)

EXHIBIT(bus21a03)

01:18:42 Motion: SEN. BROWN moved that SB 209 DO PASS.

Discussion:

01:20:13 Motion: SEN. ESP moved that AMENDMENT SB020901.APM BE ADOPTED. Motion carried unanimously by voice vote. SEN. BALYEAT voted by proxy.

Discussion:

01:20:32 Motion: SEN. ESP moved that AMENDMENT SB020902.APM BE ADOPTED.

EXHIBIT(bus21a04)

Discussion:

01:21:33 Pat Murdo, LSD

01:22:26 Motion: SEN. COCCHIARELLA CALLED THE QUESTION ON AMENDMENT SB020902.APM. Motion carried unanimously by voice vote. SEN. BALYEAT voted by proxy.

Discussion:

01:22:36 Motion/Vote: SEN. ESP moved that SB 209 DO PASS AS AMENDED. Motion carried unanimously by voice vote. SEN. BALYEAT voted by proxy.

MONTANA SENATE
2007 LEGISLATURE

ROLL CALL

BUSINESS, LABOR AND ECONOMIC AFFAIRS

DATE 1-31-07

NAMES	PRESENT	ABSENT	EXCUSED
SEN. JOE BALLYEAT (R)	✓		
SEN. ROY BROWN (R)	✓		
SEN. JOHN ESP (R)	✓		
SEN. VERDELL JACKSON (R)	✓		
SEN. LANE LARSON (D)	✓		
SEN. DON RYAN (D)	✓		
SEN. FRANK SMITH (D)	✓		
SEN. CAROLYN SQUIRES (R)	✓		
SEN. DONALD STEINBEISSER (R)	✓		
SEN. JOE TROPILA (D)	✓		
SEN. VICKI COCCHIARELLA (D) CHAIRWOMAN	✓		
PAT MURDO (LSD)	✓		
CLAUDIA JOHNSON, SECRETARY	✓		

SENATE PROXY FORM

According to Senate Rule 30-70 (13) (f), a committee member may vote by proxy using a standard form.

PROXY VOTE

I, the undersigned, hereby authorize Senator Verdell Jackson

to vote my proxy on any issue before the Senate Business, Labor

+ Economic Affairs Committee

held on 1/31, 2007.

SB 134 - yes to Table (Requested by sponsor)

SB 191 - yes to Table

SB 204 - yes to amendment (SB 20405. am)

yes to pass (unanimous)

JR Balyant
SENATOR
STATE OF MONTANA

SB 209 - YES TO AMENDMENT SB 020901
YES TO AMENDMENT SB 020902
YES TO BILL - YES UNANIMOUS

Amendments to Senate Bill No. 204
1st Reading Copy

Requested by Senator Don Ryan

For the Senate Business, Labor, and Economic Affairs Committee

Prepared by Pat Murdo
January 31, 2007 (8:27am)

1. Title, line 5.

Following: "BUSINESSES"

Insert: "BY CLAIMANTS; ALLOWING ACCESS FOR COMPETITIVE ESTIMATES"

2. Page 1, line 11.

Following: "(1)"

Insert: "(a)"

3. Page 1, line 14.

Strike: "(a)"

Insert: "(i)"

Following: "that a"

Strike: "person insured"

Insert: "claimant"

4. Page 1, line 16.

Strike: "(b)"

Insert: "(ii)"

Strike: "an insured person"

Insert: "a claimant"

5. Page 1, line 17.

Strike: "an insured person"

Insert: "a claimant"

6. Page 1.

Following: line 18

Insert: "(b) An insurance company, including its producers and adjusters, that issues or renews a policy of insurance in this state covering, in whole or in part, a motor vehicle may have access to the motor vehicle for purposes of preparing a competitive estimate."

7. Page 1, line 27.

Strike: "insured person"

Insert: "claimant"



SENATE STANDING COMMITTEE REPORT

January 31, 2007

Page 1 of 3

Mr. President:

We, your committee on **Business, Labor, and Economic Affairs** recommend that **Senate Bill 204** (first reading copy -- white) do pass as amended.

Signed: _____

Vicki Cocchiarella
Senator Vicki Cocchiarella, Chair

And, that such amendments read:

1. Title, line 5.

Following: "BUSINESSES"

Insert: "BY CLAIMANTS; ALLOWING ACCESS FOR COMPETITIVE ESTIMATES"

2. Page 1, line 11.

Following: "(1)"

Insert: "(a)"

3. Page 1, line 14.

Strike: "(a)"

Insert: "(i)"

Following: "that a"

Strike: "person insured"

Insert: "claimant"

4. Page 1, line 16.

Strike: "(b)"

Insert: "(ii)"

Strike: "an insured person"

Insert: "a claimant"

5. Page 1, line 17.

Strike: "an insured person"

Insert: "a claimant"

6. Page 1.

Committee Vote:

Yes 11, No 0

Fiscal Note Required — *KF*

211148SC.spb

32

Following: line 18

Insert: "(b) An insurance company, including its producers and adjusters, that issues or renews a policy of insurance in this state covering, in whole or in part, a motor vehicle may have access to the motor vehicle for purposes of preparing a competitive estimate."

7. Page 1, line 27.

Strike: "insured person"

Insert: "claimant"

8. Page 1, line 29.

Strike: "insured person"

Insert: "claimant"

9. Page 2, line 6.

Strike: "insured person"

Insert: "claimant"

10. Page 2, line 17.

Strike: "insured person"

Insert: "claimant"

11. Page 2, line 18.

Strike: "insured person"

Insert: "claimant"

12. Page 2, line 19.

Strike: the first "insured person"

Insert: "claimant"

Strike: the second "insured person"

Insert: "claimant"

13. Page 2, line 20.

Strike: "insured person"

Insert: "claimant"

14. Page 2, line 22.

Strike: "an insured person"

Insert: "a claimant"

15. Page 2, line 24.

Strike: "insured"

Insert: "claimant"

Strike: "insured's"

Insert: "claimant's"

16. Page 2, line 29.

Strike: "insured person"

Insert: "claimant"

17. Page 3, line 1.

Strike: "insured person"

Insert: "claimant"

18. Page 3, line 2 through line 3.

Following: the second "charge" on line 2

Strike: "an" on line 2 through the first "customer" on line 3

Insert: "a claimant"

19. Page 3, line 6.

Strike: ", "

Insert: ":

(a) "

20. Page 3, line 8.

Following: "products"

Insert: ";

(b) "claimant" means the person seeking repair of a motor vehicle whether that person is the insured person or a third party making a claim against the insurer"

- END -

SENATE BILL NO. 204
INTRODUCED BY D. RYAN

A BILL FOR AN ACT ENTITLED: "AN ACT PREVENTING AN INSURER FROM REQUIRING MOTOR VEHICLE
REPAIR ESTIMATES OR REPAIRS FROM CERTAIN BUSINESSES BY CLAIMANTS; ALLOWING ACCESS
FOR COMPETITIVE ESTIMATES; AND AMENDING SECTION 33-18-224, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 33-18-224, MCA, is amended to read:

"33-18-224. Designation of specific automobile body repair businesses prohibited. (1) (A) An insurance company, including its producers and adjusters, that issues or renews a policy of insurance in this state covering, in whole or in part, a motor vehicle may not:

- (a)(i) require that a ~~person insured~~ CLAIMANT under the policy use a particular automobile body repair business or location for an estimate or a repair; or
- (b)(ii) engage in any act or practice that intimidates, coerces, or threatens ~~an insured person~~ A CLAIMANT or that provides an incentive or inducement for ~~an insured person~~ A CLAIMANT to use a particular automobile body repair business or location.

(B) AN INSURANCE COMPANY, INCLUDING ITS PRODUCERS AND ADJUSTERS, THAT ISSUES OR RENEWS A POLICY OF INSURANCE IN THIS STATE COVERING, IN WHOLE OR IN PART, A MOTOR VEHICLE MAY HAVE ACCESS TO THE MOTOR VEHICLE FOR PURPOSES OF PREPARING A COMPETITIVE ESTIMATE.

(2) (a) Except as provided in subsection (2)(b), if an insurance company has direct repair programs with automobile body repair businesses or locations, the insurance company may not limit the number of automobile body repair businesses or locations with whom it maintains direct repair programs.

(b) An insurance company may limit the number of automobile body repair businesses or locations participating in the insurance company's direct repair program to those automobile body repair businesses or locations that comply with the provisions of subsection (2)(c). An insurance company is not required to establish a direct repair program in a particular market area in which the insurance company's number of policyholders does not support establishing a direct repair program with any automobile body repair business or location.

(c) Upon request, the insurance company shall provide, without prejudice or bias, the ~~insured person~~

1 CLAIMANT with a list that includes all automobile body repair businesses or locations that are reasonably close or
2 convenient to the ~~insured person~~ CLAIMANT and willing to provide services and that meet the insurance company's
3 criteria regarding whether the automobile body repair business or location:

4 (i) possesses the equipment necessary to undertake repairs;

5 (ii) undertakes training of management and technical personnel with respect to repair information and
6 the claims process;

7 (iii) agrees to perform quality repairs at the prevailing competitive market price and that meet reasonable
8 industry repair standards;

9 (iv) agrees to warrant the quality of work, including refinishing, in writing to the ~~insured person~~ CLAIMANT,
10 for a period of not less than 1 year from the date of repair;

11 (v) agrees to inspection of its repairs and services by the insurance company and agrees that the
12 insurance company may terminate the direct repair program with the automobile body repair business or location
13 if the repairs and services are below the standards of quality required by the insurance company; and

14 (vi) if requested, agrees to execute an agreement with the insurance company that may contain additional
15 criteria that are not designed to unfairly limit the number of automobile body repair businesses or locations with
16 whom the insurance company maintains direct repair programs. The additional criteria may include criteria
17 determined to be necessary by the insurance company and designed to ensure that the automobile body repair
18 business or location has the necessary estimating systems and programs and equipment to communicate
19 electronically with the insurance company and that the automobile body repair business or location has taken
20 steps to ensure the privacy of the insurance company and the ~~insured person~~ CLAIMANT.

21 (d) If the ~~insured person~~ CLAIMANT requests the list provided for in subsection (2)(c), the insurance
22 company shall inform the ~~insured person~~ CLAIMANT that the ~~insured person~~ CLAIMANT may use an automobile body
23 repair business or location at the sole discretion of the ~~insured person~~ CLAIMANT.

24 (3) For the purposes of this section, an incentive or inducement does not include:

25 (a) providing ~~an insured person~~ A CLAIMANT with the list provided for in subsection (2)(c); or

26 (b) referring to a warranty issued by an automobile body repair business or location.

27 (4) The ~~insured~~ CLAIMANT may use an automobile body repair business or location at the ~~insured's~~
28 CLAIMANT'S sole discretion, and the insurance company shall pay for the reasonable and necessary cost of the
29 automobile body repair services for covered damages, less any deductible under the terms of the policy. This
30 section does not require an insurer to pay more for automobile body repair services than the lowest prevailing

1 market price, as defined in 33-18-222.

2 (5) If the ~~insured person~~ CLAIMANT uses an automobile body repair business or location that is not on a
3 list provided for in subsection (2)(c), the insurance company may not be held liable for any repair work performed
4 by the automobile body repair business or location chosen by the ~~insured person~~ CLAIMANT.

5 (6) It is unlawful for an automobile body repair business or location to charge or agree to charge ~~an~~
6 ~~insured customer~~ A CLAIMANT more than an uninsured customer for any automobile body repair service.

7 (7) An insurance company that contracts with an independent adjuster may not be held liable for the
8 independent adjuster's failure to comply with the terms of this section.

9 (8) For purposes of this section:

10 (A) "automobile body repair business or location" does not include a business or location that exclusively
11 provides automobile glass replacement, glass repair services, or glass products;

12 (B) "CLAIMANT" MEANS THE PERSON SEEKING REPAIR OF A MOTOR VEHICLE WHETHER THAT PERSON IS THE
13 INSURED PERSON OR A THIRD PARTY MAKING A CLAIM AGAINST THE INSURER."

14 - END -

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 60th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By Chairman Scott Mendenhall, on March 29, 2007
at 8:00 A.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Scott Mendenhall, Chairman (R)
Rep. Jim Keane, Vice Chairman (D)
Rep. Mike Milburn, Vice Chairman (R)
Rep. Elsie Arntzen (R)
Rep. Shannon Augare (D)
Rep. Scott Boggio (R)
Rep. Ernie Dutton (R)
Rep. Kevin T. Furey (D)
Rep. Llew Jones (R)
Rep. Harry Klock (R)
Rep. Michele Reinhart (D)
Rep. Wayne Stahl (R)
Rep. Bill Thomas (D)
Rep. Kendall Van Dyk (D)

Members Excused: Rep. Ralph Heinert (R)
Rep. Jonathan Windy Boy (D)

Members Absent: None

Staff Present: Bart Campbell, Legislative Branch
Nancy Kraft, Committee Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: HJR 51, 3/26/2007; SB 204,
3/27/2007; SB 321, 3/27/2007; SB
465, 3/26/2007
Executive Action: SB 74; SB 204; SB 465

HEARING ON SB 465

Opening Statement by Sponsor:

00:01:54 Sen. Vicki Cocchiarella (D), SD 47, opened the hearing on SB 465, Exempt state fund from ITSD requirements.

Proponents' Testimony:

00:03:43 Laurence Hubbard, Chief Executive Officer (CEO),
Montana State Fund

Opponents' Testimony:

00:09:54 Dick Clark, Chief Information Officer, Department
of Administration

EXHIBIT(buh67a01)

Informational Testimony: None

Questions from Committee Members and Responses:

00:12:06 Rep. Keane
00:12:05 Mr. Hubbard
00:13:42 Rep. Mendenhall
00:14:19 Sen. Cocchiarella
00:18:17 Rep. Arntzen
00:18:47 Mr. Hubbard
00:20:12 Rep. Furey
00:21:11 Mr. Clark
00:24:04 Rep. Dutton
00:24:33 Mr. Clark

Closing by Sponsor:

00:25:59 Sen. Cocchiarella

HEARING ON SB 204

Opening Statement by Sponsor:

00:31:14 Sen. Don Ryan (D), SD 10, opened the hearing on SB 204,
Prevent insurer from requiring repairs or estimates
from certain business.

Proponents' Testimony:

00:35:00 Donna Fastenau, Hank's Body Shop, Billings, Montana;
Montana Collision Repair Specialists

00:38:31 Bruce Halcro, Capital Collision, Montana Collision
Repair Specialists

EXHIBIT(buh67a02)

EXHIBIT(buh67a03)

00:41:25 Larry Kibbee, Property Casualty Insurance Company of
America

00:43:49 Riley Johnson, National Federation of Independent
Business

Opponents' Testimony: None

Informational Testimony:

00:44:30 Jacqueline Lenmark, American Insurance Association

Questions from Committee Members and Responses:

00:46:23 Rep. Keane

00:46:54 Ms. Lenmark

00:49:05 Rep. Dutton

00:49:39 Mr. Kibbee

00:50:57 Ms. Fastenau

Closing by Sponsor:

00:52:57 Sen. Ryan

HEARING ON HJR 51

Opening Statement by Sponsor:

00:55:27 Rep. Arlene Becker (D), HD 52, opened the hearing on
HJR 51, Study economic status of Montana women.

EXHIBIT(buh67a04)

Proponents' Testimony:

00:56:32 Rep. Diane Sands, HD 95

01:05:52 Rep. Veronica Small-Eastman

01:09:11 Anna Whiting-Sorrell, Governor's Office

01:10:26 Linda Gryczan, Montana Women's Lobby

EXHIBIT(buh67a05)

01:13:29 Terry Kendrick, Montana Women Vote; and Working for
Equity and Economic Liberation

01:14:39 Jodi Medlar, Women's Foundation of Montana

Opponents' Testimony: None

Informational Testimony:

HOUSE COMMITTEE ON BUSINESS AND LABOR

March 29, 2007

PAGE 6 of 8

02:53:59 **Vote:** Motion carried unanimously by voice vote. Reps. Windy Boy, Milburn, and Heinert voted by proxy.

02:54:53 **Motion:** Rep. Thomas moved that SB 74 **BE AMENDED.**

EXHIBIT(buh67a08)

Discussion:

02:55:00 Rep. Boggio
02:55:24 Mr. Campbell
02:56:15 Rep. Arntzen
02:56:30 Rep. Reinhart
02:57:24 Rep. Keane

02:57:51 **Vote:** Motion carried unanimously by voice vote. Reps. Windy Boy, Milburn, and Heinert voted by proxy.

02:58:26 **Motion:** Rep. Thomas moved that SB 74 **BE CONCURRED IN AS AMENDED.**

Discussion:

02:58:42 Rep. Keane
02:58:57 Rep. Augare
02:59:16 Rep. Milburn

03:00:07 **Vote:** Motion carried unanimously by voice vote. Reps. Windy Boy and Heinert voted by proxy. Rep. Keane will carry the bill.

EXECUTIVE ACTION ON SB 204

03:01:22 **Motion:** Rep. Klock moved that SB 204 **BE CONCURRED IN.**

Discussion:

03:01:38 Rep. Arntzen
03:02:14 Rep. Keane
03:03:09 Rep. Mendenhall

03:03:41 **Vote:** Motion carried unanimously by voice vote. Reps. Windy Boy and Heinert voted by proxy. Rep. Klock will carry the bill.

EXECUTIVE ACTION ON SB 465

03:04:11 **Motion:** Rep. Keane moved that SB 465 **BE CONCURRED IN.**

HOUSE OF REPRESENTATIVES
Roll Call
BUSINESS AND LABOR COMMITTEE

DATE: 3-29-07

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT/ EXCUSED</u>
REP. SCOTT MENDENHALL, CHAIR	✓	
REP. MIKE MILBURN, VICE CHAIR	✓	
REP. JIM KEANE, VICE CHAIR	✓	
REP. ELSIE ARNTZEN	✓	
REP. SHANNON AUGARE	✓	
REP. SCOTT BOGGIO	✓	
REP. ERNIE DUTTON	✓	
REP. KEVIN FUREY	✓	
REP. RALPH HEINERT		✓
REP. LLEW JONES	✓	
REP. HARRY KLOCK	✓	
REP. MICHELE REINHART	✓	
REP. WAYNE STAHL	✓	
REP. BILL THOMAS	✓	
REP. KENDALL VAN DYK	✓	
REP. JONATHAN WINDY BOY		✓

MONTANA STATE AUDITOR

JOHN MORRISON
STATE AUDITORCOMMISSIONER OF INSURANCE
COMMISSIONER OF SECURITIES

November 3, 2006

Bruce Halcro
1006 Euclid Ave.
Helena, MT 59601

Dear Mr. Halcro:

This letter confirms our receipt of your emails and facsimile, as well as our telephone conversations regarding the interpretation of §33-18-224, Mont. Code Ann, copy enclosed.

Your query deals with (1)(a) and the question of whether the word "use" not only concerns auto repairs, but also estimates. In checking with the legal staff, our answer would be no. A legislative fix would be to amend (8) to include the following language: "Automobile body repair business or location" does include a business or location where insurance estimates are conducted. It is important to note that (1) only deals with first party insureds, not third party claimants.

In an August 30, 2006 email, you had concerns about being provided a list pursuant to §33-18-224(2)(c)MCA. However, that provision of the code applies to an insurance requesting the list. Furthermore, in looking at the email, it appears that the Hartford email provides a list of qualifications. The page provided also appears to be one page of a multi-page document. We would not be able to draw any conclusions without the complete document and a complete review.

You expressed an interest in hiring a lobbyist to maybe work changes in this code. If your organization decides to make changes, you might want to look at (2)(c)(iii) which states: "prevailing competitive market price" versus (4) which states: "lowest prevailing market price". There appears to be a disconnect between these two phrases.

We appreciate your time and courtesy in dealing with these important issues.

Sincerely,

A handwritten signature in cursive script that reads "Carol Roy".
Carol Roy
Administrator
Policyholder Services

January 18, 2006

TO: Committee Members

FROM: Beth Klunder
Vice-President
Rocky Mountain Bank

Dear Committee Members:

I am writing to express my concern about the experience I had with Safeco Insurance on an insurance claim that I had on my vehicle.

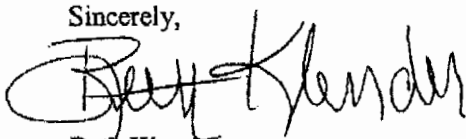
I was given the choice of going to Chassis Works or Big Sky Collision in Billings to have my vehicle inspected by a Safeco Adjuster.

I have handled all of my auto body repair work through Hank's Body Shop for years. I trust them, and know the owner's personally. I do NOT choose to obtain estimates or shop for competitive bids at other body shops in Billings.

I felt it was very inconvenient to drive up to Chassis Works in Billings Heights on icy roads to have my car adjusted. I also felt that I was being "steered" by Safeco to have my car repairs done at Chassis Works.

I felt uncomfortable and out of place at Chassis Works because I was not having my car repaired by them. It would be my recommendation to have Safeco choose a "neutral" location for their claims representatives in the future.

Sincerely,



Beth Klunder

4580 Laredo Place
Billings, MT 59106

January 17, 2007

Re: Vehicle Repair

To Whom It May Concern:

The purpose of this letter is to alert the legislature to a practice that is occurring in Billings, MT. My understanding of Montana law is that people have a choice of body shops for vehicle repair and that multiple estimates of repair are not required.

In December 2006 I unfortunately experienced a minor, vehicle collision and was instructed by my long-term insurance agency, Safeco Insurance, to make an appointment with Big Sky Collision Center in Billings for a claims adjuster to prepare an estimate of the damages to my vehicle. I had already contacted Track Side Auto Body & Glass, my preferred company, in Billings for an appointment for an estimate and repair of my vehicle. The estimate at Big Sky Collision Center took an hour of my time which I felt was unnecessary since I had no intention of authorizing that body shop to perform the repair. Following that appointment, I went to Track Side Auto Body & Glass for another estimate and to schedule the repair. This was duplicated effort on my part and a waste of time for Big Sky Collision Center. In fact, their estimate neglected to include all of the damage, and Track Side Auto Body had to follow-up with the estimator for approval on additional repairs.

I am concerned that insurance companies can require insureds to obtain vehicle damage estimates at a specific body shop with the implication that is the only "approved" site. Doesn't that practice circumvent the law of free choice in automobile repair? Thank you for your consideration.

Sincerely,


Phyllis A. Jenkins

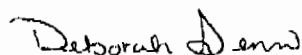
FROM :

FAX NO. :

Jan. 18 2007 04:05PM P1

On December 15, 2006 I was going to my fathers house who had just passed away, about 6 miles from his house I hit a Bull Elk that was on the road. It was unavoidable because of an on coming car and the fact that it was completely dark. There was a considerable amount of damage done to the right front of my 2004 Chevy pickup. I called Farmers Insurance the next morning. I got the claim going and they told me I could use any Body Shop I wanted to, but they had their preferred body shops. I got some estimates from the shops I wanted to go to. I called claims adjuster and he said he would have to see my pick up before I could go to Track Side Auto Body Shop. I told him I was working 6 days a week 8 to 10 hours a day. I also told him where my pick up was all day and he got come and look at it. He told me I would have to be there for him to look at my pickup. I did get a day off and went to Farmer Claims Office and was told that my claims adjuster was out that day and nobody else was available to look at my pickup and really pushed their preferred shops to take my truck to get fixed. I just had to drop off my truck and they would get started on fixing it right away. Between working and trying to put together a funeral service for my father I finally got mad and went to one of Farmers preferred shops and got my truck fixed. When I got my truck back it looked nice, but the first time I washed it the hood was scratched. I was really disappointed that I did not go to who I wanted to go to and used one of Farmers preferred shops. If I can go to any shop, it should not be so hard to go the body shop I want to go to without a adjusted looking at my truck. From the estimates I got there was not much difference in the prices.

Thank you for your time



Deborah Senn
January 17, 2007

Dear Committee Members:

I would like to urge you to pass the amendments to SB 204. Allowing insurance companies to set up shop in independent repair facilities is steering and interferes with free trade. When a Safeco, USAA, or Hartford customer comes into my shop for an estimate, I must tell them they have to get their estimate at another body shop. I will never see many of these potential customers back in my shop. I have no idea how many customers I have lost because of this process. Also, to my knowledge, I am only aware of the 3 companies I mentioned doing this, there might be others that I will not get a chance to see. What would stop other companies from following this same procedure if these companies are allowed to continue? What will happen to free enterprise then?

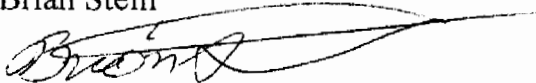
Gratuity? Safeco specifically is not paying the body shop rent to give their adjusters space in the shop facility. Is this gratuity, or is the payment for being in the body shop more vehicles to repair since they are requiring insureds and claimants to come to their facility?

I have also included a few letters from consumers expressing their feelings of intimidation by not being allowed to choose a shop of their choice.

I ask that you please consider our letters and please pass the amendments.

Thank you for your consideration,

Brian Stein



Track Side Auto Body
2012 1st Ave. North
Billings, MT 59101
406-256-8366

Date: January 17, 2006

Re: Auto insurance/body shop recommendations

In 2005, my car was involved in an accident where I was not at fault. When the other party's insurer contacted me they urged me to go to a particular auto company here in town as it was their "body shop of choice". I went there first and they gave me a bid for \$2100 for repairs. I went to another shop and was given a bid of \$1700. I called the insurer and told them their recommended shop was higher by 24% on the bid. They said that was still fine and to go to that shop for the work. I declined and got the work done for \$1700 and called the insured party and told them of the conversation.

Mike Dimich

406-252-9355

Billings, Montana

Automotive Service Association State Legislative Objectives

(Jan. 1, 2007-Dec. 31, 2007)

I. Monitor State Legislation and Regulations

A. The Washington office will advocate positions before state legislatures and agencies in support of or in opposition to legislation or regulations as directed by the ASA board of directors.

B. The Washington office will submit testimony, when appropriate, in favor of or in opposition to proposed legislation and regulations.

C. The Washington office will develop favorable new legislation and seek sponsors and supporters both inside and outside the state legislature.

D. The Washington office will study, evaluate and report on all new legislation for its potential impact on ASA members.

E. The Washington office will garner grassroots support from ASA members and other interested parties on issues of principal concern.

F. The Washington office will develop industry coalitions to assist ASA members in state legislative and regulatory activity.

II. Develop a Position and a Lobbying Strategy for Important Legislation

The Washington office will recommend positions and advocacy strategies for legislation that has been introduced or for any new proposals to be supported or opposed by ASA.

A. Insurance Reform

1. ASA supports state legislation that provides that no motor vehicle insurance policy may require the insured to use a particular repair facility for repair services.

2. ASA supports state legislation that prevents insurance com-

panies from requiring the use of replacement crash parts unless the vehicle owner consents in writing.

3. ASA opposes state legislation that allows insurance companies to offer policyholders the option of purchasing policies that provide that only certain repair facilities will be used in the event of a claim in return for reduced premium charges.

4. ASA opposes insurance companies having an ownership interest in repair facilities.

5. ASA supports removing the cost of repairing, replacing or reinstalling inflatable safety restraints from the total cost of repairs to rebuild or reconstruct a vehicle.

B. Vehicle Safety and Emissions Inspections

1. ASA supports legislation that encourages states to adopt safety and inspection programs, combined with vehicle emissions inspection programs, where feasible.

2. ASA supports effective state vehicle emissions inspection and maintenance programs tailored to meet each state's unique requirements.

C. Clean Air Issues

1. ASA supports state legislation that limits the sale and distribution of automotive refinish products to those repair facilities with the proper training and equipment necessary for the safe and environmentally sound use of those products.

2. ASA opposes state legislation promoting accelerated vehicle scrappage programs in instances where older, high-emitting vehicles can be identified and adequately repaired except if a repair option exception is included in the scrappage proposal.

D. Miscellaneous Legislation

1. ASA opposes state legislation that attempts to limit the payment plans by which automotive technicians are compensated.

2. ASA opposes state legislation that requires automotive repair shops to provide long-term warranties on labor and parts.

3. ASA supports state repair shop licensing that includes – but is not limited to – technician training and equipment requirements.

4. ASA opposes state legislation that would require motor vehicle repair businesses to give all customers a firm estimate of the time and money required to complete repair jobs.

5. ASA supports state incentives for training and apprenticeship programs.

6. ASA supports legislation and regulations that create affordable business liability, health and worker compensation programs.

III. Develop a Long-Term Grassroots Education Program

A. The Washington office will work with the national office to disseminate information to ASA members to enhance ASA's advocacy efforts.

B. The Washington office will use new technologies to reach members and inform them of opportunities for grassroots lobbying activities.

C. The Washington office will conduct state education activities to enhance independent repair state positions. The Washington office will develop targeted state initiatives to advance ASA national legislative policies.

ASA encourages the independent automotive repair industry to use ASA's legislative and regulatory Web site, www.TakingTheHill.com.

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Oregon considers anti-steering legislation

Mar 8, 2007

By: Brian Albright

Automotive Body Repair News

Oregon has joined the growing list of states now considering anti-steering legislation. In February, a bill was introduced in the Oregon state senate that would prohibit insurers from suggesting or recommending a collision repair shop unless the customer requested the referral, and would require insurance companies to inform customers of their right to choose a shop.

The bill would also prohibit insurers from limiting or discounting "reasonable repair costs" if the customer chooses a shop other than the one recommended by the insurance company.

Senate Bill 523 was introduced by Democratic Senator Floyd Prozanski of Eugene, who heads the Senate Commerce Committee, and has the support of a statewide group of independent auto collision repair shops called Oregonians for Safe Auto Repair (OSAR).

According to OSAR, the bill also has the support of the Oregon Attorney General, Hardy Myers.

"There has been a groundswell of body shops and consumers finding themselves the victims of steering practices and policies," says Jim Marr, OSAR's lead lobbyist and director of the group's political action committee (PAC).

Under the terms of the bill, an insurance company would not be able to recommend a repair shop "unless the insured expressly requests a referral from the insurer." If the customer elects to have the vehicle repaired at a shop other than the recommended repairer, the insurance company "may not limit or discount reasonable reimbursement costs based on charges that would have been incurred had the vehicle been repaired by the insurer's recommended shop."

Insurance companies must also provide written notice of the customer's right to have their vehicle fixed at the shop of their choice within five calendar days of providing an oral recommendation.

Existing Oregon law says that insurance companies cannot dictate where an insured vehicle is repaired.

"What our bill does is reinforce the current statute, confirming that consumers are the only party authorized to choose a repair shop," says Marr.

**Montana House of Representatives
Visitors' Register**

Business & Labor COMMITTEE

Date 3-29-07

SB 204; 321;
Bill Nos. SB 465; HJR 51 Sponsor(s) Sen. Ryan; Sen. Bhueggemann;
Sen. Cocchiarella; Rep. Becker

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

Name	Representing	Bill No.	Support	Oppose	Info.
Lawrence Hubbard	MT State Fund	465	✓		
JEFF BATTON	Montana Growth CAPITAL	SB 321	✓		
BRUCE HALCRS	MCRS CAPITAL COLLISION	SB 204	✓		
Donna Fastenau	MCRS Hairs Body Shop	SB 204	✓		
Dick Clark	ITSD	SB 465		✓	
AL PARISIAN	MT State Fund	SB 465	✓		
Stacy Rippin	MT State Fund	SB 465	✓		
Tony Ribbee	PCIAA	SB 204	✓		
Tony Kendrick	MT Women's Life	HJR 51	✓		
Annie Goonwill	DOA	SB 321			✓
Riley Johnson	NFIB	SB 204	X		
Jaqueline Bernmark	AIA	SB 465	X		
Jaqueline Bernmark	AIA	SB 204		GO	X
Bar Anostoy	Richland Economic Development Corp	SB 321	—	—	
KATHERINE KOUNTZ	Dept of Labor - NRP	HJR 51			X
Tyler Turner	Dept. of Labor ^{R&A}	HJR 51			X
Linda S. Davis	Administration	HJR 51			X
Linda Gryczan	MT Q's Lobby	HJR 51	✓		
Anna Whitey Smith	Gov OTR	HJR 51	✓		



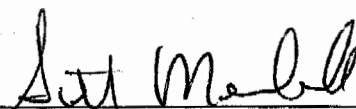
HOUSE STANDING COMMITTEE REPORT

March 29, 2007

Page 1 of 1

Mr. Speaker:

We, your committee on **Business and Labor** recommend that **Senate Bill 204** (third reading copy -- blue) be concurred in.

Signed: 
Representative Scott Mendenhall, Chair

To be carried by Representative Harry Klock

- END -

Committee Vote:

Yes 16, No 0

Fiscal Note Required _____

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3/29/07



AN ACT PREVENTING AN INSURER FROM REQUIRING MOTOR VEHICLE REPAIR ESTIMATES OR REPAIRS FROM CERTAIN BUSINESSES BY CLAIMANTS; ALLOWING ACCESS FOR COMPETITIVE ESTIMATES; AND AMENDING SECTION 33-18-224, MCA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 33-18-224, MCA, is amended to read:

"33-18-224. Designation of specific automobile body repair businesses prohibited. (1) (a) An insurance company, including its producers and adjusters, that issues or renews a policy of insurance in this state covering, in whole or in part, a motor vehicle may not:

(a)(i) require that a ~~person insured~~ claimant under the policy use a particular automobile body repair business or location for an estimate or a repair; or

(b)(ii) engage in any act or practice that intimidates, coerces, or threatens ~~an insured person~~ a claimant or that provides an incentive or inducement for ~~an insured person~~ a claimant to use a particular automobile body repair business or location.

(b) An insurance company, including its producers and adjusters, that issues or renews a policy of insurance in this state covering, in whole or in part, a motor vehicle may have access to the motor vehicle for purposes of preparing a competitive estimate.

(2) (a) Except as provided in subsection (2)(b), if an insurance company has direct repair programs with automobile body repair businesses or locations, the insurance company may not limit the number of automobile body repair businesses or locations with whom it maintains direct repair programs.

(b) An insurance company may limit the number of automobile body repair businesses or locations participating in the insurance company's direct repair program to those automobile body repair businesses or locations that comply with the provisions of subsection (2)(c). An insurance company is not required to establish a direct repair program in a particular market area in which the insurance company's number of policyholders does not support establishing a direct repair program with any automobile body repair business or location.

(c) Upon request, the insurance company shall provide, without prejudice or bias, the ~~insured person~~ claimant with a list that includes all automobile body repair businesses or locations that are reasonably close or convenient to the ~~insured person~~ claimant and willing to provide services and that meet the insurance company's criteria regarding whether the automobile body repair business or location:

- (i) possesses the equipment necessary to undertake repairs;
- (ii) undertakes training of management and technical personnel with respect to repair information and the claims process;
- (iii) agrees to perform quality repairs at the prevailing competitive market price and that meet reasonable industry repair standards;
- (iv) agrees to warrant the quality of work, including refinishing, in writing to the ~~insured person~~ claimant, for a period of not less than 1 year from the date of repair;
- (v) agrees to inspection of its repairs and services by the insurance company and agrees that the insurance company may terminate the direct repair program with the automobile body repair business or location if the repairs and services are below the standards of quality required by the insurance company; and
- (vi) if requested, agrees to execute an agreement with the insurance company that may contain additional criteria that are not designed to unfairly limit the number of automobile body repair businesses or locations with whom the insurance company maintains direct repair programs. The additional criteria may include criteria determined to be necessary by the insurance company and designed to ensure that the automobile body repair business or location has the necessary estimating systems and programs and equipment to communicate electronically with the insurance company and that the automobile body repair business or location has taken steps to ensure the privacy of the insurance company and the ~~insured person~~ claimant.

(d) If the ~~insured person~~ claimant requests the list provided for in subsection (2)(c), the insurance company shall inform the ~~insured person~~ claimant that the ~~insured person~~ claimant may use an automobile body repair business or location at the sole discretion of the ~~insured person~~ claimant.

(3) For the purposes of this section, an incentive or inducement does not include:

- (a) providing an ~~insured person~~ a claimant with the list provided for in subsection (2)(c); or
- (b) referring to a warranty issued by an automobile body repair business or location.

(4) The ~~insured~~ claimant may use an automobile body repair business or location at the ~~insured's~~ claimant's sole discretion, and the insurance company shall pay for the reasonable and necessary cost of the

automobile body repair services for covered damages, less any deductible under the terms of the policy. This section does not require an insurer to pay more for automobile body repair services than the lowest prevailing market price, as defined in 33-18-222.

(5) If the ~~insured person~~ claimant uses an automobile body repair business or location that is not on a list provided for in subsection (2)(c), the insurance company may not be held liable for any repair work performed by the automobile body repair business or location chosen by the ~~insured person~~ claimant.

(6) It is unlawful for an automobile body repair business or location to charge or agree to charge ~~an insured customer~~ a claimant more than an uninsured customer for any automobile body repair service.

(7) An insurance company that contracts with an independent adjuster may not be held liable for the independent adjuster's failure to comply with the terms of this section.

(8) For purposes of this section:

(a) "automobile body repair business or location" does not include a business or location that exclusively provides automobile glass replacement, glass repair services, or glass products;

(b) "claimant" means the person seeking repair of a motor vehicle whether that person is the insured person or a third party making a claim against the insurer.

- END -